

PT 00-16

Tax Type: Property Tax

Issue: Religious Ownership/Use

**STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
CHICAGO, ILLINOIS**

**ST. GEORGE ORTHODOX CHURCH,
APPLICANT**

v.

**STATE OF ILLINOIS
DEPARTMENT OF REVENUE**

**Docket No: 98-PT-0092
(97-16-995)**

**Real Estate Exemption
For 1997 Tax Year**

P.I.N. 16-20-106-045

Cook County Parcel

**Robert C. Rymek
Administrative Law Judge**

RECOMMENDATION FOR DISPOSITION

APPEARANCES: Kristen Benedict of Crane & Norcross on behalf of St. George Orthodox Church.

SYNOPSIS: This proceeding raises the issue of whether Cook County Parcel Index Number 16-20-106-045 (hereinafter the “subject property” or “subject parcel”) should be exempt from 1997 property taxes. The applicant is seeking exemption under section 15-40 of the Property Tax Code, which exempts “All property used exclusively for religious purposes.” 35 ILCS 200/15-40.

This controversy arose as follows:

On June 1, 1998, St. George Orthodox Church (hereinafter the “applicant”) filed a Property Tax Exemption Complaint with the Cook County Board of Review (hereinafter the “Board”). On July 13, 1998, the Board recommended that an exemption be granted

for the entire 1997 tax year. On August 27, 1998 the Illinois Department of Revenue (hereinafter the “Department”) granted an exemption for the subject property for 6% of the 1997 tax year. The applicant filed a timely appeal and on January 24, 2000, a formal administrative hearing was held at which evidence was presented. Following a careful review of all the evidence, it is recommended that the subject property be granted a property tax exemption for the entire 1997 tax year.

FINDINGS OF FACT

1. Dept. Gr. Ex. No. 1 and Dept. Ex. No. 2 establish the Department’s jurisdiction over this matter and its position that the subject property was in exempt use for 6% of the 1997 tax year.
2. The applicant is a not for profit corporation which was organized on December 12, 1983. App. Ex. No. 2.
3. The applicant’s bylaws provide that it was organized for purposes of “propagating, practicing and forever perpetuating religious worship services, ministrations, Sacraments, and teachings[.]” App. Ex. No. 1.
4. The applicant acquired title to the subject property in November 1996. App. Ex. Nos. 12-15.
5. The subject property is located at 6035 West Roosevelt Road, in Cicero. Dept. Gr. Ex. No. 1.
6. The subject property is improved with a one-room, one-story building. Tr. pp. 30-31.

7. During the 1997 tax year, the applicant used the subject property primarily for Bible studies, Sunday school classes, and occasional church overflow from special occasions. Tr. pp. 49-54, 59.
8. The applicant owns other parcels of land located adjacent to the subject property. The applicant's main church building, a rectory, and a parking area are located on those parcels. The Department has recognized those parcels as being in exempt use. Tr. pp. 25-29; App. Ex. Nos. 6, 7.
9. The applicant does not lease out the subject property or otherwise use it with a view to profit. Tr. pp. 22-23, 60-61.

CONCLUSIONS OF LAW

An examination of the record establishes that this applicant has demonstrated by the presentation of testimony, exhibits and argument, evidence sufficient to warrant an exemption for the subject property for the entire 1997 tax year. In support thereof, I make the following conclusions:

Article IX, section 6 of the Illinois Constitution of 1970 limits the General Assembly's power to exempt property from taxation as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

The General Assembly may not broaden or enlarge the tax exemptions permitted by the constitution or grant exemptions other than those authorized by the constitution. Board of Certified Safety Professionals v. Johnson, 112 Ill.2d 542 (1986). Furthermore, article IX, section 6 does not in and of itself grant any exemptions. Rather, it merely authorizes

the General Assembly to confer tax exemptions within the limitations imposed by the constitution. Locust Grove Cemetery v. Rose, 16 Ill.2d 132 (1959). Thus, the General Assembly is not constitutionally required to exempt any property from taxation and may place restrictions or limitations on those exemptions it chooses to grant. Village of Oak Park v. Rosewell, 115 Ill. App.3d 497 (1st Dist.1983).

In accordance with its constitutional authority, the General Assembly enacted section 15-40 of the Property Tax Code, which exempts “All property used exclusively for religious purposes.” 35 ILCS 200/15-40.¹ In People ex rel. McCullough v. Deutsche Gemeinde, 249 Ill. 132, 136-137 (1911) our supreme court stated that “a religious purpose means a use of such property by a religious society or body of persons as a stated place for public worship, Sunday schools and religious instruction.”

Here the primary use of the subject property in 1997 was for religious instruction and Sunday school. Accordingly, it qualifies for exemption. For explanatory purposes it is noted that it appears that the reason the Department initially exempted the subject for only 6% of the 1997 tax year was due to confusion arising out of the fact that due to a fire at the applicant’s main church building, the subject property was also temporarily used for worship services from December 10, 1997 through December 31, 1997. Tr. pp. 7-8. However, as noted above, religious exemptions are not limited to property used for worship services, but clearly extend to property used for religious instruction and Sunday school.

¹ The word “exclusively,” when used in tax exemption statutes means “the primary purpose for which property is used and not any secondary or incidental purpose.” Gas Research Institute v. Department of Revenue, 154 Ill. App. 3d 430 (1st Dist. 1987); Pontiac Lodge No. 294, A.F. & A.M. v. Department of Revenue, 243 Ill. App. 3d 186 (4th Dist. 1993).

Therefore, for the reasons set forth above, I recommend that Cook County Parcel Index Number 16-20-106-045 be exempt from property taxes for 100% of the 1997 tax year.

March 22, 2000

Robert C. Rymek
Administrative Law Judge